



Department of Justice

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JAPANESE CHEMICAL COMPANY THIRD TO BE CHARGED IN 17-YEAR INTERNATIONAL PRICE-FIXING CONSPIRACY

WASHINGTON, D.C.-- Nippon Gohsei, a large Japanese chemical producer, today agreed to plead guilty and pay a \$21 million criminal fine for participating in a 17-year international conspiracy to suppress and eliminate competition in the food preservatives industry.

In a one-count Information, filed today in U.S. District Court in San Francisco, the Department of Justice charged Nippon Gohsei and Hiromi Ito, the former Marketing and Sales Director of Nippon Gohsei's Fine Chemicals Business Department, with conspiring to fix, raise, and maintain prices, and allocate market shares on sorbates sold by them and unnamed co-conspirators from 1979 to 1996. In addition to the \$21 million fine against the corporation, Hiromi Ito has agreed to plead guilty and pay a \$350,000 fine for his role in the conspiracy. As part of the plea agreements, Nippon Gohsei and Hiromi Ito have agreed to cooperate in the ongoing government investigation.

"The Department will continue to seek out and prosecute all international conspiracies that defraud American consumers and unfairly restrain free and open competition in our markets," said Joel I. Klein, Assistant Attorney general in charge of the Antitrust Division.

Sorbates are chemical preservatives used primarily in high-moisture and high-sugar foods

such as cheese and other dairy products, baked goods, and other processed foods. Roughly \$200 million worth of sorbates – which include potassium sorbate and sorbic acid – are sold annually worldwide.

Nippon Gohsei is the third company to be charged with participating in the sorbates conspiracy. In October 1998, Eastman Chemical Company, a U.S. producer of sorbates, pleaded guilty and was fined \$11 million for its participation in the conspiracy. Last month, Hoechst AG, the German pharmaceutical giant, also pleaded guilty and was fined \$36 million for its role in the conspiracy. The conspiracy affected nearly \$1 billion in United States commerce.

“This was an incredibly long-lived international conspiracy,” said Gary R. Spratling, the Antitrust Division’s Deputy Assistant Attorney General for criminal enforcement. “The charges filed today are yet another illustration of our ongoing efforts to investigate and prosecute this kind of international cartel activity, which has been overcharging American consumers for years.”

The single-count felony Information charges the company with:

- Participating in meetings and conversations to discuss the prices of sorbates to be sold in the United States and elsewhere;
- Agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise increase and maintain prices of sorbates to be sold in the United States and elsewhere;
- Agreeing, during those meetings and conversations, to allocate market shares among major producers of sorbates in the United States and elsewhere;
- Issuing price announcements and price quotations in accordance with agreements reached; and
- Participating in meetings and conversations to discuss prices and sales of sorbates to be sold in the United States and elsewhere, and exchanging information on sales of sorbates in the United States and elsewhere, for the purpose of monitoring and enforcing adherence to the agreed-upon prices and market shares.

Nippon Gohsei and Hiromi Ito are charged with violating Section 1 of the Sherman Act,

which carries a maximum fine of \$10 million for corporations and \$350,000 for individuals. The fine may be increased to twice the gain the conspirators derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine. The court will determine the appropriate sentence to be imposed under the United States Sentencing Guidelines.

Today's charges are the result of an ongoing investigation conducted by the Antitrust Division's San Francisco Field Office and the Federal Bureau of Investigation in San Francisco. The case was originally referred to the Department of Justice by the Federal Trade Commission.

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